THE LIBERTY OF THE CITIZEN.

Speech of Hon. D. W. Voorhees, Of Indiana.

Delivered in the House of Representatives, February 18, 1863.

The House having under consideration "An Act to indemnify the President and other persons for suspending the privilege of the writ of habeas corpus, and acts done in pursuance vades the whole face of affairs, bad men in au-

ments made by the Senate, and the Chairman of the Committee of Ways and Means, [Mr. Steblem of unlawful and sanguinary power. Sedivens, with an obedient majority at his command, songht on Thursday last to again secure the action of this body upon the momentons and vital high official station so generally begets in the principles which it involves without permitting a heart of man. And, Mr. Speaker, the mournful evidences are thick and fearful on every hand, tion on this floor to-day, not because the pro-scriptive majority on the opposite side of this Chamber concede the freedom of debate, but be-land has brought with it to us this pernicious cause a manly, determined minority enforced it evil in its most frightful and aggravated forms. by a resort to those rules of parliamentary law Disaster has followed disaster in terrible and which were made for their protection. Let this startling rapidity to a people who two short fact be understood. Let it go into history as a years ago had never tasted the cup of humiliation part of the condemnation which there awaits the or sorrow. Our territorial grandeur has been party now in power, that the voice of the people, speaking through their Representatives, has been stifled in this Hall during the present session, on questions which overturn and revolutionize the questions which overturn and revolutionize the term our midst and cast an appalling shadow principles of republican government. The unholy spirit of despotism dreads the doctrines of erations of labor for more than a hundred years free speech, and cowers in silence and in dark- to come; but such scenes have not softened the ness. The spirit of liberty lives in an atmost heart of Executive authority, tempered the insaphere vocal with the contests between truth and tiable last of personal domination, or stayed the error, and invites the humblest citizen of the Gov- hand of official trespass and oppression any ernment to exercise his judgment freely and with- more in the administration of the American Reout restraint upon all questions of public in-

felt no disposition to discuss it; and I said that try is weakened by some deadly peril to assist in unless some gentleman wanted to discuss it I breaking it down. He watches the opportunity would ask for the vote. I then said that, as when the laws are unsettled to trample them unsome gentlemen wanted to discuss it, I would der his feet and substitute his own imperious and move to postpone it.

Mr. Voorhees: I give the gentleman the ben- and peaceful operations. efit of his statement. I had information, however, from those who visited him at his searcef a very different character; and the proceedings on this floor by which debate was obtained, gave this floor by which debate was obtained, gave

allet in the history of this or any other free peo-ple. It is entitled "An act to indemnify the President and other persons for suspending the privilege of the writ of habeas corpus, and acts tems of wrong. Chicanery, fraud, and subtle, done in pursuance thereof." But it embraces obscure false-dealing characterize its attempts even more than its startling title would indicate. when it does not feel secure in more daring ef-It gives to the Executive and all his subordinates forts. But this act of the President and his Cabnot merely security for crimes committed against | inet is the unblushing assumption of power which the citizen in times past, but confers a license to has ceased to respect or fear the Constitution or continue in the future the same unlimited exer- laws which the people have made, and which eise of arbitrary power which has brought dis- these servants of the people have sworn to supgrace and danger to the country. I propose, to port. It throws aside all disguise, tears off its the best of my ability this day, to show that vail, and displays the horrible features of desneither indemnity for the past nor impunity for potism to American citizens. Will any member the future can be bestowed on those who have of this House dispute the correctness of the violated, and who propose further to violate, the terms which I employ? Let us divest ourselves great and fundamental principles of constitu- of all passion and resentment. Let us take a

the powers of a Government constitute a question let us examine and discover, if we can, what the of supreme and paramount importance. It stands Administration now in power has done in bepreeminent over all others. No people in the history of the world ever long maintained semble behalf of the Constitution of the fathers, and in behalf of the cause for which this Republic was rity from the foot of the oppressor who lost sight founded. of this fundamental truth. The sentinel who stands guard over the citadel of popular liberty can only protect and defend his sacred trust by from the British empire, and enacted that subkeeping his vigilant eye steadily fixed on the lime tragedy of history, the American Revolution, movements of power. Every attempt to divert was to secure to the citizen more liberty and perhis attention by proclaiming other and more im- sonal security than he possessed under the jurisportant objects, or by lulling him to sleep at his diction of the British crown. Their complaints Every attempt to convince the public mind that but against a weak king and a wicked ministry, there may be higher duties for the citizen to per- who violated it in order to oppress the subject form than to preserve inviolate the inalienable. They studied the dangerous nature of a lawless rights of person, property, and the pursuit of executive during seven years of grief, of bitter-

power, and establish them by constitutional land- it, and learned it forever in the high and holy inmarks sufficiently plain and strong to resist the spiration of battles fought for the inherent right encroachments of executive authority, has been to govern themselves. Their wisdom then sucthe lofty purpose of every friend of freedom who ceeded their swords, and the American Constituhas left his name to illuminate the annals of tion became the offspring of the American Revohuman conduct. Such names belong to the peo-ple, and are household deities around the humble hearthstones of those who eat their bread in the closed, and of the causes which produced it, the sweat of their faces, and find safety alone in the well defined limits of the laws under which they live. The Surveyor with his chain can run the lines and plant the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the borders of him land the corner stones along the t ders of kingdoms, empires, States and Territo- the spirit with which it was born, and such the ries; but statesmen and philosophers have taxed purpose for which it was set apart. It is an old all the hours since the dawn of civilization with maxim of law that every instrument shall be conthe efforts of incessant industry in circumscribing strued and interpreted according to the intention and restraining the lawless and impatient spirit of those who made it. This maxim was followed of power. Vast armies have been marshaled until these modern days have engendered not and great battles fought; the earth has been turned merely a spirit of false construction, but of open from its primeval peace and purity into one and audacious usurpation, such as never haunted mighty sepulcher, and the sky has been rent with the disordered brain of George III, even in his the voice of mourning in order to appease the hours of madness. I am not about here to enter lust of conquest and to extend the physical boun- into an elaborate discussion of the various pridaries of a country to a mountain, a river, or an mary functions of the Constitution. It is the invisible, air-drawn line, which is disputed by armed force; but one drop of blood from the veins of John Hampden or Joseph Warren; one dangers which now assail it here in the house of handful of dust from the graves of Saratoga or Camden; one expiring sigh from the lips of Bozaris or Winkelreid; one relic from the plains of its simplest but most important features. old Platea or Marathon, is more valuable and By the letter and by the spirit of the Constitumore glorious in the cause of human progress, and more acceptable in the presence of infinite lar Government. The people make every part justice and eternal right than all the wars of in- of it, uphold the entire fabric, and control its vasion and subjugation with which the world has whole economy. It is true that the Constitution resounded from Issus to Austerlitz. I bow be- makes three departments in which the powers of fore the shrine which liberty has erected to the the Government are placed, but the voice of the names of Washington and of Algernon Sidney, people is supreme over them all. The Executive of the elder Beutus and of Thomas Jefferson. I can make no law, annul no law, change no law. invoke their memories and the guidance of their He is not responsible for the laws as he finds spirits while I denounce a measure which surventhem. They are made by the people in their ders back to the hands of power all those grand legislative capacity, and he is simply their servachievements in the cause of human freedom ant to execute their will thus expressed. The

tion. A memorable epoch in history is trans- the law as thus declared by the courts is not in piring in our view. The air is dark with the eles accordance with the popular wishes, it is to be ments of strife and of change. The convulsions corrected by new legislation. But one departwhich have signalized the past are being repro- ment cannot invade or coerce the other, when duced in the present. The murderous roar of each confines itself to its constitutional boundacannon, the sanguinary crash of war, and the ries. These rules are very old and very familiar pallid, appealing faces of the dead mark our but they assume a new and wonderful signifitime and our country as they have marked all cance in the light of present events. They are climes and ages heretofore. History is being like the face of an old friend beheld unexpectedly rewritten; and what man has done man is doing under terrible and startling circumstances. I do again. I see nothing new in the calamities which not allude to them at this time because I suppose now assail the destiny to which we aspire. We they are new to the humblest mind in the land. are treading over again the footsteps of genera- I allude to them, however, sir, for the purpose of tions which have passed away. Mutation and asserting, as I do here now in my place as a change is the order of the world. Stability and Representative of the people, that the present permanence in the works of human hamis is the Utopian dream of abstract speculation. The powers of the judicial and the legislative departdifferent forms which Governments have assumed ments of the Constitution to an extent which is to redeem society from chaos constitute no ex- totally subversive of republican institutions, and ception to this remark. On the contrary, all not to be borne by a free people. I make the history stands as an awful witness to the fact that charge and will submit the proof to my candid no Government has ever yet been established countrymen.
which has been exempt from the fierce blasts of It will not be denied on this floor or elsewhere human passion and human ambition.

not necessarily roll backward, or even check the the civil Courts of this country, from one ocean to wheels of progress. Great principles are imthey are encased may perish and decay to dust; gave access to the vaults of the prison, but not to but like the liberated soul truth puts on new the bar of justice. It is a part of the nature of glories in every phase of her existence. Our feail man to sin against laws, both human and course is onward, like the mighty river, to the divine, but God himself secures him a trial before ocean of destiny. I believe in the steady advancement and ultimate civilization of the world tice of the Almighty. To deny to an accused perby the benignant power of a higher and purer son the right to be heard in his defense is pre emwhich presides over my belief is composed of despotism. Condemnation without trial, and punthose handmaidens of God—liberty, charity, and ishment without limitation, is the exact definition justice. With faith in these, the American peo-ple, though assailed by those painful convulsions ever feasted on the groans of the captive, or ban-which no nation ever escaped, though desolated queted on the tears of the widow and the father-

people refuse, from this time forward, to be led these principles, an abvss of horror awaits our speedy entrance, as terrible to the upright soul of a free-born American citizen as the flaming depths where the lost angels writhe in agony. The world, it is true, will not stand still; some other people more worthy the high trust will take up the cause of constitutional government; but we will be dropped in gloom and despair by

Sir, times like the present are always full of danger to the rights of the people. In an hour like this if we expect to retain the institutions of liberty, an increased degree of vigilance is remired. For when the elements of political organization are in commotion, and disorder perthority unbridle the spirit of tyranny in their breasts and leap over the walls of constitutional Mr. Voorhees said:

Mr. Speaker, the American people will learn with amazement that the bill now under consideration has once passed this House without debate. It returns here now with amendments made by the Senate and the Chairman of the rulers of nations do the same. Benjaments made by the Senate and the Chairman of Governments of former ages. The usurper seizes Mr. Stevens: When this bill was called up I the moment when the Constitution of his coununhallowed will in the place of their well-defined

convincing proof that my information was cor- a proclamation, declared that the people of this country were under martial law, and that all civil rights and remedies touching their personal Sir, the bill now before the House has no par- liberties were suspended. The blow was sudcalm view of facts and principles, as history will Sir, the proper division and lawful exercise of do, and, by the steady light of truth and reason,

The object for which our ancestors revolted

post, comes from an enemy to free government. were not against the Constitution of England, happiness, is an assault upon the existence of ness, and of blood. When day dawned on their this Republic and a sacrilege against God. independence, the great secret of free government To measure out the metes and bounds of was no longer a secret to them. They had learned

which have rendered their names immortal. department of the judiciary was created to inter-Sir, we live in the midst of storm and revolu- pret and pronounce the meaning of law; and if

that the suspension of the writ of habeas corpus But instability and tempestuous struggles do by proclamation, to which I have alluded, closed and heavy in heart, and weeping over departed glories and joys, may yet look off across the dark and angry face of the waters, and in the distance behold the star of peace and honor, and around it clustering the heavenly constellation of wicked exercise of unlawful power has better to the tears of the whow and the latter and the star of the star of the water and of glories and joys, may yet look off across the shame American citizens have been gazing for more than a year! The great bulwark which distance behold the star of peace and honor, and generations in bloody toll have erected against the around it clustering the heavenly constellation of wicked exercise of unlawful power has been painted. around it clustering the heavenly constellation of wicked exercise of unlawful power has been torn individual and national happiness. But if this away with a parricidal hand. Every citizen in

this Republic, the farmer at his plow, the mechanic in his shop, the merchant at his counter, every calling and profession in life, from the proud man in his mansion to the good man in his gabin.

We will sell to no man; we will not deny to any man all stand this day naked and exposed, utterly and either justice or right. entirely at the mercy of one man, and of the of the Revolution in which our liberties were won, usurpations of the present hour, and the abject an outrage on the memory of the great dead of tones of those who feed on the smiles of Executive that period, and a mockery to the common sense favor. I turn away from the sad omens which additional outrage, new advocates rise up to de- gether die. fend that source of patronage, wealth and fame- Mr. Speaker, we cannot over estimate the value and skillful and deceptive sophistry, all combine of tyranny. Nero had his poet laureate, and 1770, paid tribute to it as follows: Seneca wrote his defense for the murder of his

deplorable war, the President suspended the operations of the writ of habeas corpus in certain unsettled and afflicted cities and portions of the country. This was, in my judgment, without authority of the Constitution; but the people bore with heroic patience their own wrongs rather than add to the disorder and calamities of the nation. But this partial assult on the principles of free government is rendered insignificant in view of the daring and gigantic stride taken in September, and which the blandishing tongue of flattery and adu lation commend and sustain in the American Congress, and in the face of the American people. With this last act in the mournful tragedy of national honor, and, I fear, national existence, I shall more especially deal at this time

Sir, I might content myself as to the power of by resting upon judicial precedent. I might declare to this House and to the country, in the language of that eminent jurist, late Justice of upon this question have been adverse to the power thus esteeme feeble sparks of the glow-worm in vain compe- the historiantition with the blazing sun at its meridian. I. This famous deed either granted or secured very immight show from the recorded transactions of the portant liberties and pr vileges to every order of men in past that the nineteenth century and the land of the kingdom—to the ciergy, to the barons, and to the much vaunted freedom have produced a Presi- people. dent and a Cabinet who, in'a speciestof delerium, in behalf of personal security and personal inde. Hallam declares: pendence; decisions which salute the eye of the wayiarer and downtrodgen of every- age and of have been a clear principle of our Constitution that no every clime like light houses on the stormy beach, | man can be detained in prison without trial. beckoning the mariner in the midst of darkness and despair to the shelter of a peaceful harbor. I might do all this, and it would seem that it would be amply enough; but it would be no more than has already been done with far more ability than belongs to my humble powers. All the world knows these things Even the Representatives who misrepresent the people on the other side of this Chamber know all this, and sbrink and tremble before the application which future history will make of past history. I wish, however, to dwell for a few moments amidst the historical associations of this immortal writ of human freedom and human progress I wish to scan its purpose and discover its spirit. I wish to inquire what causes produced it. I wish to see why it was ever thought of in connection with civil government. What did'it propose to accomplish? What did it oppose, and what did it favor? Who have been for it, and who have been against it? The answers to these questions, drawn from history, space of four hundred years. will, according to my mode of reasoning, throw immense light on the question of the power of any executive office: to suspend its operations and deprive the people of its benefits.

that to one man belongs the right to govern the the law of the land," and upon what charge it many. Kings, and the courtiers of kings, who was made. ty has had to encounter. Every contest it everwaged has been to put restraint and control on cial command of his Majesty.

one grand epoch. It had built a monument of midst: the distant sky. The statesman, the philosopher, age of liberty. Then came, however, that mys terious tomb of a thousand years, in which the lity of Parliament that no man, of what estate or condition principles of free government slept. But it was that he be, should be put out of his lands or teneme not the sleep of death. Liberty found its resur-rection at the hands of that greatrace from whose rection at the hands of that greatrace from whose law.

Joins the American citizen has descended. It v. Nevertheless, against the tenor of said statutes, and awoke simply to renew the struggles of the past your Majesty's write of habeas corpus, there to und the dark ages, as well as in the days of Tiberius ons without being charged with anything to which they and Philip of Macedon. The struggle has never might make answer according to law. them the possession of power is freedom. Crowned meet these complaints, but, in an unhappy hour heads claimed it as their right; for to them it was for him, broke his royal word, and again tresthe gratification of a passion more consuming than passed upon the rights of the people. The strugall others that ever corroded the human heart- gle again commenced, and raged until Charles I the avarice of dominion—the lust for personal fell beneath the ax of the executioner; and that supremucy. The safety of the people lay in mysterious and unexplained enigma of history, soon learned. Kings sought to govern by proc-lamations which suspended or disregarded law. ment. And though the practical fruits of this the British Barons meet at Runnymede? Why, no sanctity of prerogative, no dignity of blood, no is the name of that spot immortal? What causes prescriptive customs, no pageantry of royal state, produced that wonderful assemblage in the no bayonets surrounding the palace, can protect month of June, and in the year 1215? Why is one man in plundering the multitude of their perit that we talk to day, of that event transpiring sonal liberties. It is a lesson, sir, which the more than six hundred years ago with the fa- hamblest American citizen knows by heart to day

No freeman shall be taken or imprisoned, or disseized

This was the voice of a people in whose minds fawning minions who crouch before him for pay. a clear perception of legal forms had not yet I state a fact in the hearing of the country, and dawned; but it was the clear, high voice of liberty, wherever my feeble words may penetrate with which when once spoken never ceases to echo and nesses will rise up and solemnly attest its truth, resound from age to age until the angel shall close It would be the natural supposition of every in the book of time. I love to listen to its pealing ligent mind, that an argument to prove that strains. No music this side of the winged chernthere is a warrant in the Constitution for this bim of God is so sweet to my ear. I contrast it state of affairs would be an insult to the genius with the harsh, discordant notes of the Executive of the world. But the spirit of abject servility, surround us to renew and strengthen my faith in which always invites the arrogant assumptions of the ultimate success of free institutions, by conpower and precedes the downfall of liberty, is per forming its loathsome office on every hand. We already passed. I turn away from the sight of hear on every side the old cry of the courtier and expiring liberty in this land to assure myself by a the parasite. At every new aggression, at every contemplation of other days that it cannot alto-

the department of the Executive. Technical and of the victory obtained by the popular will over obscure rules, cunningly devised special pleas, the doctrine of the one man power when the Great Charter was extorted from England's perfidious in the hands of the supporters of this Administra- king. Every enlightened lover of human freedom tion to tear away from the people the protection has borne testimony to the importance of this of the laws of their own making. Such assistance grand achievement. The great Earl of Chatham, has always waited on the most malignant efforts in pleading the cause of constutional liberty in

Senecis wrote his defense for the murder of his mother. The present dark hour affords ample evidence that human nature is the same that it was two thousand years ago.

Amid the opening scenes of this disastrous and hearts to distinguish right from wrong, they had heads to distinguish right from wrong, they had heads to distinguish truth from falsehood; they understood the rights of humanity, and they had spirit to maintain them.

My Lords, I think history has not done Justice to their conduct; when they obtained from their sovereign that great acknowledgment of national rights contained in Magna Charta, they did not confine it to themselves alone but delivered it as a common blessing to the whole people. Sir James Muckintosh dwells upon it in glowing periods. Says that brilliant historian and

Whoever, in any future age or yet unborn nation, may admire the felicity of the expedient which converted the power of taxation into the shield of liberty by which disretionary and secret imprisonment was rendered impracticable, and portions of the people were trained to ex-ercise a larger share of judicial power than ever was abotted to them in any other civilized State, in such a manner as to secure instead of endangering public tran-quility; whoever exults at the spectacle of enlightened and independent assemblies, which, under the eye of a the President to suspend the writ of habeas corpus policy likely to make communities great and happy; whoever is capable of comprehending all the effects of such institutions, with all their possible improvements, upon the mind and genius of a people, is sacredly bound to speak with reverential gratitude of the authors of the Great Charter. To have produced it, 1° have preserved the Supreme Court of the United States, Benja-min Rand Curtis, of Massachusetts, that "the England upon the esteem of mankind.

only judicial decisions which have been made | Why, Mr. Speaker, has Magna Charta been of the President." I might array negative upon to be worthy of such lofty encomiums? Why negative, and cite in support of my position the does it tower up with such magnitude over all great names of judicial history, before whose glory other considerations in the construction of free in the higher walks of useful tame among meo the governments? The answer is very simple, plain, most exalted names of to day would be as the brief. It is because, in the language of Hume.

it is immortal and dear, sir, to all people, and

have defied, spursed, and sought to crush and more especially to the American people at this humiliate the legal decisions of centuries made time, because in the discussion of its principles From the era, therefore, of King John's charter it must

It is an authority in point to day against the daily practices of those who now administer the affairs of this republic, because Sir James Mack intosh has pronounced its "crowning glories," which fill the world with grateful admiration, to be "those essential clauses which protect the personal liberty and property of all freemen, by giving security from arbitrary imprisonment and

arbitrary spoliation." Such, sir, are its claims upon the dearest affections of mankind. It was born in the hearts of a proud, free race, and its mission on earth was to onfront and resist that pernicious dogma of tyrants, that the liberties of the people can in any event be left to the control of any solitary individual, whether he be called Czar, Emperor, King or President. And in every contest with its enemy it has been eventually victorious. The people of England compelled their sovereigns to olemnly ratify it more than thirty times in the

But, bearing in mind the causes which produced Magna Charta, and the great object it was designed to accomplish, let us take another step in the history of the progress of personal liberty and personal security. In 1627 com-Sir, the history of the progress of liberty, next | menced that wonderful English revolution which | to the history of the Christian religion, is the fills so many memorable and bloody pages of most sublime and instructive lesson taught in the history. It commenced over the old question annals of the world. Its fortunes, indeed, have of power. The King arrested Hampden, Darbeen various, but no season of adversity has ever nel, and other citizens for refusing to pay certain sufficed to quench the vestal fires which burn on taxes, and threw them into prison. They apits altars. And in all the terrible struggles with plied to the Court of King's Bench for the which it has jurred the nations and liberated the writ of habeas corpus, in order that it might people, its sole antagonist has been the principle be known whether their commitment was "by

talk of the divine right to the possession and ex | The writ was granted; but the warden of the ficet made ercise of power, have been the enemies which liber. return that they were detained by a warrant from the Privy Council, informing him of no particular cause of imprisonment, but that they were committed by the spe-

the will, the pretensions, the authority of one | We have had many swir returns in this land man. Every battle fought beneath its banners, in of freedom during the past year, and every mind all the four quarters of the earth, has been fought | will suggest the ready parallel by a simple change to resist and repel the arrogant and unlawful claims of names. But in the day's of Charles I, more of power made by one mane. Every law which than two hundred years ago, our ancestors did was ever enorted in its interest, from the laws of | not allow the subject to drop at the haughty bid-God on Mount Sinai to the present hour, has ding even of a king. They met the issue, bold been enacted to protect the masses from the rav- and fierce discussion followed, until the unwaraging and oppressive hand of one man. This ranted arrest and imprisonment of five Englishhas lovever been the issue, and it is the issue now. | men gave rise to the famous Petition of Right, When the light of liberty faded away in the sky | which was a clear and explicit affirmation of the of Southern Europe, and Grecian and Roman principles of Magna Charta, and an application glory went down in the gloom and night of des- of them to existing grievances. I quote that potism, ages of darkness followed, over whose portion of it which so forcibly reminds us of the paralyzed faculties the spirit of absolutism held high and sacred rights which have been stricken undisputed supremacy. But liberty had made down by the present Administration in our own

law, literature, science and art, which still stands, III. And whereas, also, by the statute called "the Great and will forever stand, towering up on the back ground of history like some awful pyramid against the distant sky. The statesman, the philosopher. the distant sky. The statesman, the philosopher, toms, or be outlawed or exiled, or in any manner dethe poet, the artist and the historian, all bend stroyed, but by the lawful judgment of his peers, or by reverently before the grand achievements of that the law of the land.

awake with returning consciousness on the soil other the good laws and statutes of your realm, to that of our ancestors, at the touch of Edward the end provided, divers of your subjects have of late been Confessor and Alfred the law maker. But it imprisoned without any cause showed; and when, for their deliverance, they were brought before your justices, by with its ancient foe. One man in the robes of and receive as the court should order, and their keepers office, loving power with a selfish love, and exercising it in disregard of law, met the genius of liberal institutions at every step on this side of Privy Council, and yet were re under back to several pris-

ceased. The people grasped at power; for to The king signed new guarantees of liberty to written laws judicially interpreted, and this they Oliver Cromwell, triumphed over him in the Hence arose these glorious efforts to fix the mighty revolution were for long years turned to boundaries between the ruler and the citizen-to dust and ashes upon the lips of England, yet the put restraint on the one, and give security to the public mind of the world had learned a grand and other, which constitute the chief glory of Eng-land and the just pride of Englishmen. Why did mankind of every age and of every country that

militarity which belongs to an event of yesterday? and treasures up, as an everl; ting inberitance. Sir, the old contending principles were there But there was another great period in history brought face to face, and a great landmark was in which our ancestors developed their devotion erected in behalf of personal liberty and against to the progress of liberty, to the principles of the abuse of power, as high as the heavens and Magna Charta. In 1689 another member of as enduring as the furth. The people confronted the house of Stuart, forgetful of the fate of his King John, who had been arresting citizens with father, possessed himself of the atrocious in-out charge, and punishing them without trial, and struments of oppression, and attempted to subvert made him record an oath before angels and the laws and the liberties of his kingdom. But men that he would forever abandon the practice the spirit which brought Charles I to the block of such outrages. This was Magna Charta, exiled James II, and changed the dynasty for-These were the causes which produced it. It ever from the house of Stuart. And the same became a perpetual law, and every English monarch, from John to Victoria, has sworn in express form of words as a part of the coronation oath to support it. Listen, sir, to its oldfashioned and homely, but most glorious text:

ervades and sustains them all is so complete that ord Chatham consolidated them in his mind, Their application to civil rights was as universal to be free which beats beneath the sun. They nstitute a frowning and defiant bulwark against ext great struggle in behalt of constitutional

the people possessed and inflict the people possessed and people poss usurpation. It was a solemn protest, in the name of human nature, that one man should have the liberties of this people within his control no more cause of liberty recedes back into the twilight forever. It was the promulgation of Magna dawn from which it emerged nearly a thousand Charta, the continuation of the Petition of Right, years ago. Then there was no law for the king the extension of the Bill of Rights, and a concen. except his arbitrary will; and there will be no ration of them all. Here are the noble, familiar other law here now for the President. Every

to be searched, and the persons or things to be seized. land or naval ferces, or in the militia when in actual service in time of war or public danger; nor shall any person be subject, for the same offense, to be twice put in jeopardy of life or limb; nor shall be be compelled, in any criminal case, to be a w tness against himself, nor be deprived of life, liberty, or property without due process of law; nor shall private property be taken for public use il private property be taken for public use

enjoy the right to a speedy and public tria!, by an impar-tial jury of the State and district wherein the crime shall have been committed, which district shall have been previously ascertained by law, and to be informed of the and swaved by the passions and prejudices which nature and cause of the accusation; to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor, and to have the assistance sir; this darling writ of the people, which has of counsel for his defense.

in the American Constitution; but something maxim of reason, by every principle of political more is necessary and indispensable in order to philosophy. carry it out and confer its practical benefits on | If I err, Mr. Speaker, in asserting that the

race unwilling to accept the doom of slaves to be again be betraved and out to death. a law of necessity. It sprang from no statute. It depends for its existence on no enactment. It I belong, sir, to a profession which is glorious is one of those high, unrepealable laws which in history. I rejoice that I have spent some of liberty writes on the hearts of all her worshippers, the days of my manhood in the study of a science and which, without the aid of legislation, became in the adorument of which Erskine and Curran, a part of the common law of England, simply be. | Webster and Grimke spent their lives. The lecause of that rule of God's providence, which gal profession has had much to bear in the hosprescribes an eternal fitness of things. It is, per | tile criticism provoked by an unworthy class who haps, older than Magna Charta itself. Hallam, inhabit the vestibule of her temple, and allure to in his History of the Middle Ages, referring to their meshes the unwary pilgrims who seek her the period when the great charter was obtained, shrine for substantial relief. The artful trickery

Whether courts of justice framed the writ of habeas bute of the profession of the law, and its lower orpus in conformity to the spirit of this clause, or found walks; that pestilential brood which swarms it already in their register, it became from that era the around the base of the pedestal of honorable right of every subject to demand it

And again, this great author says: From the earliest records of the English law no freeman | mosphere near the sun in which the great jurists could be detained in prison except upon a criminal charge or conviction, or for a civil debt. In the former case it of twenty generations dwell. They have been was always in his power to demand of the Court of King's Bench a writ of habeas corpus ad subjictendum, directed to the person detaining him in custody, by which he was

This law, thus described, the American colo- that "perfection of reason," English and Amerinies inherited and possessed from the earliest pe- can law, recognize the voice of the people as the riod of their settlement. It took no legislation to voice of God. It is matter of record that the bestow on them its blessing, for, as an eminent legal profession has been the patient, the toilin law writer observes:

And it must now be taken as a settled axiom of Ameri- dwell upon its services, and recall the circum-

made the following provis on against its suspen-

It That the pretended power of suspending laws by real authority, without consent of Parliament, is illegal.

2. That the pretended power of dispensing with laws, the execution of laws by regal authority, as it hath law, but his elemency, through the iron grates of prisons, with less legal redress for their wrongs prisons, with less legal redress for their wrongs. of a people devoted to liberty imploring, not the law, but his clemency, through the iron grates of prisons, with less legal redress for their wrongs than the dusky slaves of the Carolinas. The writ Mr. Speaker, we have here, then the three grand acts in the sublime drama of English lib-erty; and the unity of immoral principle which and yet it is claimed, in this enlightened age, that that very man can control it. It has been proclaimed them to be "the Bible of the lish Constitution." Their inspiration was fined, however, to no nation and to no age. President of the United States has become its master. You might as well lock the convict in as mankind itself. They speak in tones of hope, of dignity and of manhood, to every heart worthy him there when you return, as to expect the executive ruler of a nation to abide within the limconstitute a frowning and defiant bulwark against arbitrary and despotic power; but a radiant and smiling angel of liberty, peace, fraternity and security to the toiling millions whose strong arms unhald the wealth the commerce the records. uphold the wealth, the commerce, the progress city to refrain from entrance when the gates were and the civilization of the world. And when the thrown open and the sword delivered up, as to next great struggle in behalt of constitutional liberty for the citizen against the unlawful assumption of power by one man, which startled the nations in 1776, had closed in triumph on the soil of Virginia—where the voice of Patrick Henry first aroused it—the material for those clauses of the American Constitution which secure the per the American Constitution which secure the per utterly defeated if the President of the United sonal independence and personal rights of the States can sus; end its operations and paralyze it itizen, was ready and ample, a rich inheritance by his touch. It might as well never have adorned the past, and only needed to be reasserted in the pages of jurisprudence. It becomes a useless the form of an organic law. Our Constitution is simply one more denial recorded in history of the power to transcend the written law in order to the citizen of his liberty contrary to law; and active contrary to law; and activ reach and injure the citizen in the enjoyment of life, liberty and property. It is simply one more declaration, added to those already made, that fail, for it is within the power of the President to remove every obstacle which stands in his way

Let this construction be maintained, and the

sections, the due observance of which alone effort made in behalf of free government will have renders American citizenship more valuable been made in vain. The Barons will have assemthan the condition of the slave on his planta. | bled in vain. John Hampden, on the plains of Chalgrave, will have died in vain. Our own mar-Agr. IV. The right of the people to be secure in their persons, houses, papers, and effects, agrinst unreasonable on the battle fields of the Revolution, will have arches and seizures, shall not be invaded, and no war- tasted the bitterness of death in vain. The lights rant shall is ne but upon probable cause, supported by oath or affirmation, and particularly describing the place wisdom and the sufferings of the past will all be wisdom and the sufferings of the past will all be Ast. V. No person shall be held to answer a capital or stricken down. Magna Charta will fall from its otherwise infamous crime, unless on a presentment or in-dictment of a Grand Jury, except in cases arising in the land or naval forces, or in the militia when in actual ser-One man's supremacy, the everlasting foe to free ART. VI. In all criminal prosecutions the accused shall institutions, will be complete. In the place of caused the venerable statesman to abound in I have thus, sir, given a brief and summary warm and swelling periods of eulogium, and the view of the results which have attended a contest between free principles and the abuse of power judicial eloquence; this guardian of every home for more than six hundred years in England and this saint in every freeman's calendar; this friend America. I have endeavored to point out the of every fireside; this key to every dungeon; this issue which has at all times been involved. It will messiah of the law, which comes to redeem the be observed, however, that all these great instru. lost and to visit those that are sick and in prison, ments, which stand as beacon-lights of liberty was not born to be suspended and crucified at along the pathway of the last six centuries, and the command of some ruling Casar. The people from which I have so freely quoted, are only de. who made it, and who own it by the title of a claratory of what the rights of man are, and de hundred battles fought for its principles, can pend for their execution on an additional agency alone, through their representatives, say when in the policy of government. Magna Charta, as they are willing to waive for a season its protec-I have shown, declared a mighty principle in the tion and enact its temporary suspension. Not science of just government, and it has been re. only is this the law, as decided by every Court peated over and over again many times since, and in the history of English and American jurispruit last finds a polished and detailed embodiment | dence, but it is also the law as decided by every

mankind. The Barons said that the executive Parliament alone in England, and the Congress should not take, imprison or punish any citizen alone in the United States, can judge of the neof the realm, except according to the law of the cessity and exercise the power of suspending the land; the subjects of every English king have re- writ of habens corpus, I err in most noble compeated it, and the framers of our Constitution as pany. I am but but following at an humble dissert the same thing with great particularity and tance in the footsteps of those whose illustrious care in the sections which I have just read; but names have long since become proverbs of wiswhat would all this be worth if no means had been dom and justice. If I am lost and going astray provided to enforce this often reiterated principle in the doctrines I have enunciated to-day, I am of liberty? It would simply stand as an expres | consoled with the reflection that I am wandering sion, a sublime one it is true, in favor of immuta- with Blackstone, with Hale, with Mansfield, with ble justice and right; but without the machinery | Coke; that I share my delusion with Kent, with of some active process of administrative law it Story, with John Marshall. If I am insensible would be powerless to extend succor to the op at this time to the claims of modern political lawressed.

Therefore all the proud declarations against the contemplation of the teachings of those whose infringement of personal liberty by the executive, names are of the immortal few not born to die. from Runnymede to the present hour, have been If I turn a deaf car on this occasion to the arroaccompanied by that messenger of speedy justice, gant pretensions of provost marshals and police the writ of habeas corpus. It executes what they officials, the representatives of executive usurpadeclare. It gives motion and efficacy to the laws tions, it is because I prefer to fix my attention of a free government. It is the active agent by upon a lofty and virtuous class, the latchets of which the will of the people, as expressed in the whose shoes they are no worthy to unloose. If Constitution and laws made for their own protect I am to be denounced for to vutterances here in tion, is enforced. Without it the tyrant may behalf of liberty and justs with eager servility laugh to the winds every doctrine of Magna of the hour, the storm will p and its fury in vain Charta, every provision of our own Constitution. on my head, sustained and protected as I am by Without it an executive ruler is beyond legal rethe unanimous voice of those whom mankind has straint or coercion, and can with impunity substi | been taught to revere as benefactors of the human tute his own will for the Constitution and the race. My eye shall not be withdrawn from the laws. Without it arbitrary power may roam over | Constitution as the guardian of liberty. I will the rights of the people, like the wild boar in the not turn away from the written law, judicially rich vineyards of Gaul, and tear and rend its vic- expounded, for any consideration of earthly importance. It is to me the star that hovered Sir, the habeas corpus is the life of liberty. It over the cradle of liberty in its infancy, the spirit is of ancient origin. It was born amid the open-ing struggles of our remote ancestors in behalf of in the wilderness, and the power which will roll popular freedom. It was recognized at once by a away the stone from its tomb if it should ever

of ignoble minds has been assigned as an attrifame, has, to the casual observer, sanctioned such a view. But this is all unjust. There is an atto the person detaining him in custody, by which he was enjoined to bring up the body of the prisoner, with the warrant of commitment, that the court might judge of its sufficiency, and remains the party, admit him to bail, or discharge him; according to the nature of the charge.

Other professions have formed technical barricades against the advance of popular freedom, and questioned the divinity of the people; but those who have drunk deep from the fountains of those who have drunk deep from the fountains of and the inspired handmaiden of liberty. I might can law, that the territory of the colouies was claimed by right of occupancy or by finding it "desert and uncultivated;" and that the common law of England first obtained in that part of the empire as a law personal to the English born colonists.

stances, in historical order, which will forever commend its fame to the lovers of free institutions, if the fleeting hour assigned to me would allow. But these things will all suggest themselves to the student of the law and the student fathers assumed that it already existed in all its ancient force and benevolent mission, and simply my brethren of the law have forgotten the examples of the past; whether the exalted chivalry of the profession is dead? Do you stand by That the privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

And now, Mr. Speaker, in view of the historical grandeur of this writ; in view of the duties though humble demand for his right as a free ich belong to its nature to perform; in view of man under the Constitution! The mission the evils which it alone can restrain; in view of the law, as the chosen apostle of freedom, has the causes which produced it, and in view of the always been to succor the oppressed, the feeble, abuses against which it is leveled, I am filled with the suffering and the poor, and to minister, in the abuses against which it is leveled, I am filled with wonder and amazement that any healthy intellect has ever been found to entertain the opinion that it was in the power of the executive department of any Government to suspend its privileges and deny to the people its protection. It came into existence to compel English kings to obey the principles of Magna Charta, and it is the only means, this side of the sword, by which an American President can be made to obey the Constitution; and yet the air is filled with a clamorous cry that these kings and this President can escape this obedience by nullifying, with a single word, the only peaceful means which the people possess to enforce it. It is the only legal means by which the American citizen can resist and antagonize the most infamous outrages against personal rights; and yet the doctrine is daily proclaimed here and elsewhere that it is wholly left to the Executive to determine whether he will be resis-

But, sir, the blow has fallen, and I rurn to survey for a few moments its ghastly consequences In defiance of all law, in contempt of the judiciary, in derision of the teachings of history, and in seorn and mockery of the hely principles of personal liberty, the writ of habeas corpus stands suspended. The will of the Executive has for more than a year been the sole law of the land to which the outraged citizen has been permitted to appeal. The Constitution with its harmonious machinery of justice has been set aside, and the exact principle of a supreme and irresponsible despotism has reigned in its stead. Nor has this been the mere naked assertion of an unwarranted and dangerons power on the part of the Executive, unaccompanied by those revolting scenes which always distinguish an arbitrary from a free Government. It has borne to the lips of the American people a fruit, in horrible abundance, more bitter and deadly than the Dead Sea apples of Sodom and Gomorrah. Sir, how shall I dwell upon the deep humiliation, the open shame which this Republic has suffered in the imprisonment of its loyal and faithful citizens? How shall I fashion my tongue to speak in the hearing of a free people, in the presence of their Representa-tives, surrounded on all hands in this Hall by the symbols of liberty, and looking on the benignant face of the Father of his Country, of deeds enacted in our midst which recall to the mind in all their frightful detail the mournful stories of the dungeon which have been wafted to us across the ocean, and which come down to us from the ages of chaos, night, and creelty? Shall I stop to count over in a melancholy array the names of those who, without crime, without criminal charge, with no law but the law of hideous violence, have been seized by the rapacity, the felonious rapacity of this Administration, and buried out of sight of home, friends, and justice? The list would be a long one, and would start tears afresh around a thousand firesides. This task, however, must be assigned to the impartial pen of history. A book will some day take its place upon the shelves of our libraries commemorating the wounds which liberty has received in this enlightened age, in the wrongs and outrages inflicted on American citizens. I am to-day dealing with the principle which is involved, and a few instances of the licentious abuse of power will illustrate the bold attempt which has been made to subvert the liberties of this Government.

No age, no sex, no condition in life has been

exempt from invasion, unlawful arrest, and imprisonment. I speak simply what every man in the hearing of my voice knows to be true. I have seen the ministers of the gospel of a peaceful Savior on their way to prison, leaving wife, children, and congregation a thousand miles behind, for preaching peace on earth and good will toward men. One, the Rev. Mr Bundy, as I am informed by my friend from Illinois, [Mr. Allen,] living in his district, was dragged away from the en grave of his child, over whose remains the burial services had not yet been closed; denied the privilege of returning to his house to take a final leave of another member of his family then dying, and hurried like an atrocious and dangerous criminal to the safe keeping of a cell. I have seen the upright and conscientions lawyer seized by the loathsome instruments of oppression, forbidden to console a sick wife, the mother of his children, with a single word at parting, and conveyed by furtive and rapid movements to a distant and arbitrary military tribunal, because he had dared, as became a freeman, to declare what he conceived the law to be. I have seen men who had been trusted and honored in public life by those who had known them most intimately in every relation, arrested in my own State for no offenses known to any law, and without warrant, without commitment, made to eat "the bread which captives' tears have watered" in every age of despotism. In the month of October last I met three friends, distinguished citizens of Indiana, who six years ago served as Senators together in her Legislature. I met them, sir, serving together in the same prison a term of imprisonment which had no other duration or limit, no other beginning or end, no other cause or conclusion, no other condition or circumstance to support it than the mere arbitrary, unlawful, unenlightened, and audacious will of one man here in Washington City. Sir, as I stood in their guarded room, listened to the story of their wrongs, and looked out upon the sunshine and the air-and the flag of the white man's freedom floating it the distance-strange thoughts possessed my mind, and strange visions arose before me. A new sensation penetrated my heart. I seemed to dwell for awhile beneath the shadow of the Bastile, and hear the cries and grouns which finally rent its walls. The dungeons of Austria opened around me, and the prayers of their victims for liberty seemed to fill all space and all time. The damp vaults of Venice and the fearful caverns of the Spanish Inquisition yielded up their horrible secrets. The Tower of London, that melancholy tomb of genius and of beauty, the imperious form of Henry VIII, the headsman's ax, the reeking block, all became distinct to my view; and I looked, as it were, face to face into the frightful, appalling countenance of tyranny. I studied its ferocious and revolting features in the light of historical associations. But when I came to reflect on all this, and reason from cause to effect, I found that precisely the same terrible principle of oppression which has disgraced the past, and filled other countries with tears and blood, was triumphing in my very presence. I turned away, and took my "appeal from tyranny

But, sir, the people of this whole country and of the civilized world have beheld worse scenes

than even these enacted in our midst. This House

has been invaded. The principle of popular representation, on which the theory of this Government is based, has been assailed in the illeral and brutal arrest of two members of the American Congress. The honorable gentleman from Marvland [Mr. May] early fell a victim to the spirit of executive usurpation, which has since spread like an evil shadow over the entire land. He had dared, in an hour of envenomed popular frenzy, to raise his voice in this Hall and assert, in no suppliant tones, his rights as a Repre-entative. He had dared to assert that the Constitution of the country was binding in all its provisions, in time of peace as well as in time of war, and that his allegiance was due to it and not to the party which had ascended into power by trampling it under their feet. In the exercise of his undoubted prerogative as a legislator, and in accordance with his sense of duty as a citizen, he had brought forward measures here looking to a speedy and peaceful solution of that unnatural strife which has turned our rivers to blood and lined our once fraternal borders with a thousand miles of graveyards-not the sweet resting places of those who lie down to sleep together in peace at the close of happy lives, but where hostile spectors will forever haunt the dismal scene; and vex the air with shricks of undying hate. For these acts of duty as a Representative, and these acts alone, sir, the honorable gentleman from Maryland was arrested, and made to feel the iron of helpless captivity enter his soul. The sanctuary of his home was invaded at midnight, that fit hour for the assassination of liberty, by an unknown band of armed men, who searched every privacy of do-mestic life, and then tore him with violence from a young and delicate family, with that total in-difference to agony and despair which so well becomes the callous agents of crime. He was thrust into prison, and became the recipient of all those odious indignities which it is the trade and calling of jailers and turnkeys to inflict on noble minds and exalted natures. He languished inside of the bars of iron and the bayonets of sentinels until the caprice of the Executive threw open the doors of his cell and told him to go. As he was arrested without charge, guilty of no offense, imprisoned without authority of law, punished without trial, so he was released from confinement without an explanation and without a hearing under the Constitution. This case, in a few brief sentences, comprises the ultimate point of a wan ton and reckless despotism. And what I have said of it applies in principle with the same force to the case of the honorable gentleman from Illinois, [Mr. Allen.] Both are representatives of the people on this floor, and both have been subjected to punishment due alone to criminals by the arbitrary and lawless edict of one man for the exercise of their opinions. Sir, do we live in a republic or an absolute monarchy? Is this an American Congress or a Roman Senate in the most abject days of the Roman empire? Is this an assembly of freemen or a French assembly in the days of Louis XIV? How much more are we expected to bear? What deeper degradation is to be inflicted on us? If one member of this body can be arrested for his opinions and made to feed on the damp vapors of a living tomb during the pleasure of the Executive, so can all the rest of us who do not, with bated breath and

[CONCLUDED ON FOURTH PAGE.]